

DEPARTMENT OF COMMERCE ELECTRONIC PAYMENT**FEES**

2023 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions related to revenue collected by the Department of Commerce.

Highlighted Provisions:

This bill:

- ▶ allows the Department of Commerce (department) to collect a fee to defray the costs of electronic payments;
- ▶ creates the Commerce Electronic Payment Fee Restricted Account (restricted account);
- ▶ requires the department to deposit electronic payment fees into the restricted account; and
- ▶ provides that appropriations from the restricted account are nonlapsing.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-1-2, last amended by Laws of Utah 2022, Chapter 415

63J-1-602.1, last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415, and 451

ENACTS:

13-1-17, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-1-2** is amended to read:

13-1-2. Creation and functions of department -- Divisions created -- Fees --

Commerce Service Account.

(1) (a) There is created the Department of Commerce.

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

(2) Within the department the following divisions are created:

(a) the Division of Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed \$1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at \$1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

(4) (a) As used in this Subsection (4):

(i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).

(iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of the business entity's status with the Division of Corporations and Commercial Code.

(iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on business portal.

(v) "Single sign-on business portal" means the same as that term is defined in Section 63A-16-802.

(b) (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed \$5, as part of a renewal fee.

(ii) The department shall deposit all single sign-on fee revenue into the fund.

(c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

(ii) The fund consists of:

(A) money that the department collects from the single sign-on fee; and

(B) money that the Legislature appropriates to the fund.

(d) The department shall use the money in the fund to pay for costs:

(i) to design, create, operate, and maintain the single sign-on business portal; and

(ii) incurred by:

(A) the Department of Technology Services, created in Section 63A-16-103; or

(B) a third-party vendor working under a contract with the Department of Technology

94 Services.

95 (e) The department shall report on fund revenues and expenditures to the Public
96 Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any
97 other time requested by the committee.

98 (5) (a) As used in this Subsection (5):

99 (i) "Costs of electronic payments" means:

100 (A) any charge, discount fee, or processing fee that a credit card company or processing
101 agent charges to process an electronic payment; or

102 (B) the costs associated with the purchase of equipment necessary for processing
103 electronic payments.

104 (ii) "Electronic payment" means any form of payment processed through electronic
105 means, including a credit card, debit card, or automatic clearinghouse transaction.

106 (iii) "Electronic payment fee" means the fee the department adopts in accordance with
107 this Subsection (5) to defray the costs of electronic payments.

108 (b) As part of the schedule of fees described in Subsection (3)(a), the department shall
109 establish an electronic payment fee.

110 (c) The department:

111 (i) may collect an electronic payment fee from each person who applies for or renews a
112 license or registration issued by the department or a division of the department; and

113 (ii) shall deposit into the Commerce Electronic Payment Fee Restricted Account
114 created in Section 13-1-17 each electronic payment fee the department collects.

115 (d) The electronic payment fee described in this Subsection (5) is not subject to
116 Subsection 63J-1-105(3) or (4).

117 (e) (i) If the department imposes an electronic payment fee, the department shall collect
118 the electronic payment fee from each person described in Subsection (5)(c)(i) regardless of
119 whether the person makes an electronic payment.

120 (ii) The department is not required to separately identify an electronic payment charged
121 to a person described in Subsection (5)(c)(i).

122 Section 2. Section **13-1-17** is enacted to read:

123 **13-1-17. Commerce Electronic Payment Fee Restricted Account.**

124 (1) As used in this section:

(a) "Account" means the Commerce Electronic Payment Fee Restricted Account created in this section.

(b) "Costs of electronic payments" means the same as that term is defined in Section 13-1-2.

(c) "Department" means the Department of Commerce.

(d) "Electronic payment" means the same as that term is defined in Section 13-1-2.

(e) "Electronic payment fee" means the same as that term is defined in Section 13-1-2.

(2) There is created in the General Fund a restricted account known as the "Commerce Electronic Payment Fee Restricted Account."

(3) The account consists of money that the department collects as an electronic payment fee in accordance with Section 13-1-2.

(4) Upon appropriation, the department may use money in the account to cover the costs of electronic payments.

(5) In accordance with Section 63J-1-602.1, appropriations made to the department from the account are nonlapsing.

Section 3. Section **63J-1-602.1** is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

- 156 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
157 Section 19-2a-106.
- 158 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
159 Section 19-5-126.
- 160 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
161 Section 23-14-13.5.
- 162 (12) Award money under the State Asset Forfeiture Grant Program, as provided under
163 Section 24-4-117.
- 164 (13) Funds collected from the program fund for local health department expenses
165 incurred in responding to a local health emergency under Section 26-1-38.
- 166 (14) The Children with Cancer Support Restricted Account created in Section
167 26-21a-304.
- 168 (15) State funds for matching federal funds in the Children's Health Insurance Program
169 as provided in Section 26-40-108.
- 170 (16) The Children with Heart Disease Support Restricted Account created in Section
171 26-58-102.
- 172 (17) The Technology Development Restricted Account created in Section 31A-3-104.
- 173 (18) The Criminal Background Check Restricted Account created in Section
174 31A-3-105.
- 175 (19) The Captive Insurance Restricted Account created in Section 31A-3-304, except
176 to the extent that Section 31A-3-304 makes the money received under that section free revenue.
- 177 (20) The Title Licensee Enforcement Restricted Account created in Section
178 31A-23a-415.
- 179 (21) The Health Insurance Actuarial Review Restricted Account created in Section
180 31A-30-115.
- 181 (22) The Insurance Fraud Investigation Restricted Account created in Section
182 31A-31-108.
- 183 (23) The Underage Drinking Prevention Media and Education Campaign Restricted
184 Account created in Section 32B-2-306.
- 185 (24) The Drinking While Pregnant Prevention Media and Education Campaign
186 Restricted Account created in Section 32B-2-308.

- 187 (25) The School Readiness Restricted Account created in Section 35A-15-203.
- 188 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
189 products or services, as provided in Section 35A-13-202.
- 190 (27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
- 191 (28) The Oil and Gas Conservation Account created in Section 40-6-14.5.
- 192 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
193 40-6-23.
- 194 (30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to
195 the Motor Vehicle Division.
- 196 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
197 created by Section 41-3-110 to the State Tax Commission.
- 198 (32) The Utah Law Enforcement Memorial Support Restricted Account created in
199 Section 53-1-120.
- 200 (33) The State Disaster Recovery Restricted Account to the Division of Emergency
201 Management, as provided in Section 53-2a-603.
- 202 (34) The Post Disaster Recovery and Mitigation Restricted Account created in Section
203 53-2a-1302.
- 204 (35) The Department of Public Safety Restricted Account to the Department of Public
205 Safety, as provided in Section 53-3-106.
- 206 (36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
207 53-8-303.
- 208 (37) The DNA Specimen Restricted Account created in Section 53-10-407.
- 209 (38) The Canine Body Armor Restricted Account created in Section 53-16-201.
- 210 (39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.
- 211 (40) The Higher Education Capital Projects Fund created in Section 53B-22-202.
- 212 (41) A certain portion of money collected for administrative costs under the School
213 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.
- 214 (42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5,
215 subject to Subsection 54-5-1.5(4)(d).
- 216 (43) Funds collected from a surcharge fee to provide certain licensees with access to an
217 electronic reference library, as provided in Section 58-3a-105.

218 (44) Certain fines collected by the Division of Professional Licensing for violation of
219 unlawful or unprofessional conduct that are used for education and enforcement purposes, as
220 provided in Section 58-17b-505.

221 (45) Funds collected from a surcharge fee to provide certain licensees with access to an
222 electronic reference library, as provided in Section 58-22-104.

223 (46) Funds collected from a surcharge fee to provide certain licensees with access to an
224 electronic reference library, as provided in Section 58-55-106.

225 (47) Funds collected from a surcharge fee to provide certain licensees with access to an
226 electronic reference library, as provided in Section 58-56-3.5.

227 (48) Certain fines collected by the Division of Professional Licensing for use in
228 education and enforcement of the Security Personnel Licensing Act, as provided in Section
229 58-63-103.

230 (49) The Relative Value Study Restricted Account created in Section 59-9-105.

231 (50) The Cigarette Tax Restricted Account created in Section 59-14-204.

232 (51) Funds paid to the Division of Real Estate for the cost of a criminal background
233 check for a mortgage loan license, as provided in Section 61-2c-202.

234 (52) Funds paid to the Division of Real Estate for the cost of a criminal background
235 check for principal broker, associate broker, and sales agent licenses, as provided in Section
236 61-2f-204.

237 (53) Certain funds donated to the Department of Health and Human Services, as
238 provided in Section 26B-1-202.

239 (54) The National Professional Men's Basketball Team Support of Women and
240 Children Issues Restricted Account created in Section 26B-1-302.

241 (55) Certain funds donated to the Division of Child and Family Services, as provided
242 in Section 80-2-404.

243 (56) The Choose Life Adoption Support Restricted Account created in Section
244 80-2-502.

245 (57) Funds collected by the Office of Administrative Rules for publishing, as provided
246 in Section 63G-3-402.

247 (58) The Immigration Act Restricted Account created in Section 63G-12-103.

248 (59) Money received by the military installation development authority, as provided in

249 Section 63H-1-504.

250 (60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

251 (61) The Unified Statewide 911 Emergency Service Account created in Section

252 63H-7a-304.

253 (62) The Utah Statewide Radio System Restricted Account created in Section

254 63H-7a-403.

255 (63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

256 (64) The Motion Picture Incentive Account created in Section 63N-8-103.

257 (65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,

258 as provided under Section 63N-10-301.

259 (66) Funds collected by the housing of state probationary inmates or state parole

260 inmates, as provided in Subsection 64-13e-104(2).

261 (67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,

262 and State Lands, as provided in Section 65A-8-103.

263 (68) The Amusement Ride Safety Restricted Account, as provided in Section

264 72-16-204.

265 (69) Certain funds received by the Office of the State Engineer for well drilling fines or

266 bonds, as provided in Section 73-3-25.

267 (70) The Water Resources Conservation and Development Fund, as provided in

268 Section 73-23-2.

269 (71) Funds donated or paid to a juvenile court by private sources, as provided in

270 Subsection 78A-6-203(1)(c).

271 (72) Fees for certificate of admission created under Section 78A-9-102.

272 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,

273 78B-6-144, and 78B-6-144.5.

274 (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,

275 Utah Indigent Defense Commission.

276 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in

277 Section 79-3-403.

278 (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State

279 Park, and Green River State Park, as provided under Section 79-4-403.

280 (77) Funds donated as described in Section 41-1a-422 for the State Park Fees
281 Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark
282 sky initiative.
283 (78) Certain funds received by the Division of State Parks from the sale or disposal of
284 buffalo, as provided under Section 79-4-1001.
285 (79) The Commerce Electronic Payment Fee Restricted Account created in Section
286 13-1-17.